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## **Ukraine**

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### **Trade Regime Change**

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**Report Highlights:**

Ukraine's trade regime for agricultural and food products in 2016 is going to change significantly as the Deep and Comprehensive Free Trade Agreement (DCFTA) allows for increased imports from EU countries. Russia will introduce additional trade barriers for Ukrainian exports by cancelling its FTA and banning a number of Ukrainian agricultural and food products. Import of Russian food products into Ukraine will get complicated due to reciprocal cancelation of the Russia – Ukraine FTA by the Ukrainian government on January 1<sup>st</sup>, 2016. All changes going into power in 2016 were expected and taken into account in previous GAIN Reports.

## Trade Regime Changes Implemented by Russia

1. On January 1<sup>st</sup> 2016 Russia adopted an import ban for agricultural and food products originating from Ukraine. The ban is a copy of the similar trade restriction imposed on the United States, EU and a number of Western countries by Russian President Order No. 560 adopted on August 6<sup>th</sup> of 2014. The Ukrainian ban was introduced by the Russian Government Decree No 842 adopted on August 13<sup>th</sup>, 2015 when Ukraine joined Western countries in imposing sanctions on Russian goods and services. Its implementation was delayed until January 1<sup>st</sup>, 2016, in hope to change EU-Ukraine FTA terms. Multilateral negotiations aimed at this goal ended without tangible results in the middle of December 2015.

The new ban includes meat and meat products, seafood, fruits, nuts, vegetables and processed products. The impact from the ban will not be significant. Once substantial, Ukrainian exports of these products shrunk in recent years as Russia imposed various restrictions using SPS arguments. The total amount of impacted Ukrainian agricultural and food exports will amount to \$116.4 million. This comprises approximately 0.9 percent of Ukrainian agricultural exports. The complete list of banned agricultural products is provided in RSATO017 [GAIN Report](#). It includes large product groups under the following HS Codes: HS 0201, 0202 0203 0207, 0210, 0301, 0302-0308, 0401-0406, 0701-0714, 0801-0811, 0813 1601, 190190 and 210690.

Although it is expected to have limited impact on overall Ukrainian agricultural export sales, it may significantly impact selected commodity groups. In 2013-2015 Russia remained the major export destination for Ukrainian beef and pork. Ukrainian producers were not able to develop alternative markets in recent years and closure of the Russian market will lead to a price drop and some domestic consumption increase. Since these actions were announced well in advance, the industry had time to plan for the change. All FAS forecasts already envisage closed Russian markets for meat products in 2016.

2. On January 1<sup>st</sup> 2016 Russia canceled the provisions of the Free Trade Agreement implementing the “most favorite nation” (MFN) regime for Ukrainian products. The FTA was negotiated and signed by both countries on October 11<sup>th</sup>, 2011, but contained multiple exclusions. Cancellation of the bilateral FTA will impact a limited remaining number of products not covered by the complete ban.
3. On January 1<sup>st</sup> 2016 Russia introduced a special transshipment regime for Ukrainian products destined for Kazakhstan. Previously, Kazakhstan and Belarus refused to join Russia in the FTA cancellation. According to Russian President Vladimir Putin’s Order No. 1, adopted on January 1<sup>st</sup>, 2016, Ukrainian goods destined for Kazakhstan would have to be transshipped through Belarus. All products must be shipped in sealed containers or railway cars, including GLONASS (Russian GPS) tracking devices. All truck drivers would have to receive special slips when entering the Russian territory and surrender those slips at exit points.

These measures establish unjustified TBT barriers impacting Ukrainian agricultural exports to Kazakhstan valued at nearly \$250 million. The most impacted trade groups include malt extracts (\$ 55 million), confectionary products (\$60 million), cheese, sugar, poultry, edible fats and many other products. Transshipment through Belarus will add to transportation distance and cost while expensive seals and additional customs procedures

will add to logistical costs and may delay some shipments.

When this report was drafted Ukrainian mass media reported multiple delays at the border associated with this new rule. According to the Office of the Ukrainian Trade Representative, on January 6<sup>th</sup>, 2016, Russia closed its border denying entry of dozens of railway cars and hundreds of trucks.

### Trade Regime Changes Implemented by Ukraine

1. According to the Cabinet of Ministers Decree 1147, adopted on December 30<sup>th</sup>, 2015, Ukraine has introduced an import ban for a number of agricultural and food products imported from the Russian Federation into Ukraine. The ban will be implemented on January 10<sup>th</sup>, 2016, and is expected to last until August 5<sup>th</sup>, 2016.

The list of banned products includes meat and meat products, fish, coffee, food additives, chocolate and chocolate bars, cigarettes, chewing gum, pet food and some others. The complete list of banned agricultural products includes: HS 0201, 0202, 0203, 0207, 0210, 03, 0403909100, 0406303100, 0901210000, 09023000, 1104291700, 15179099, 1522009100, 1704907100, 1704909900, 1806310000, 1806901900, 1901100000, 1902191000, 1905311100, 1905321100, 1905905500, 1905906000, 2005202000, 21011100, 2103909000, 2106909200, 2203000100, 2203000900, 2207, 220860, 230910 and 2402209020.

The total trade volume impacted by Ukrainian sanctions amounts to an estimated \$118.8 million (January - October of 2015 trade volume) reaching 4 percent of all agricultural imports and 86 percent of Russian agricultural exports.

2. According to the Cabinet of Ministers Decree 1147 Ukraine canceled the FTA regime with Russia on January 2<sup>nd</sup> 2016. Regular MFN import duties as outlined in the Ukrainian Custom Tariff will be imposed on imports from Russia. Given the aforementioned ban on the vast majority of Russian agricultural exports, this Resolution will have limited impact on the remaining trade flow.

### Implementation of the Deep and Comprehensive Free Trade Agreement with the EU

On January 1<sup>st</sup> 2016 the full-scale Deep and Comprehensive Free Trade Agreement (DCFTA) was implemented by Ukraine. Implementation of the Agreement was strongly objected to by Russia and caused the bilateral FTA cancellation and limitation of transit of goods to third countries. Prior to January 1<sup>st</sup> 2016, the DCFTA was implemented by the EU unilaterally. In part of 2014 and throughout the entirety of 2015, Ukrainian producers had access to the EU market as negotiated, while EU companies had no access to the Ukrainian market. Now the DCFTA is bilateral and implemented in its entirety.

The official texts of the Association Agreement and its multiple Annexes are retrievable under the following link: [http://www.europarl.europa.eu/RegistreWeb/search/simple.htm?language=EN&reference=COM\\_COM%282013%290290](http://www.europarl.europa.eu/RegistreWeb/search/simple.htm?language=EN&reference=COM_COM%282013%290290). The Agreement is an extensive and detailed document which includes seven major chapters, 43 attachments, three protocols, multiple additions, declarations and joint declarations. The total size of the document exceeds 2,000 pages. Trade issues in general and agricultural trade in particular, are referenced mainly in Chapters IV and V of the main Agreement text and multiple Annexes to the Agreement.

According to the EU Commission's website, the Agreement eliminates 99.1 percent and 98.1 percent of tariffs

for Ukraine and the EU, respectively. However a significant portion of trade in agricultural products will remain subject to tariff rate quotas (TRQs) maintained by both the EU and its member states and Ukraine. TRQs will serve as the major trade limiting tool in 2016. Implementation of the Agreement is expected over a 10-year period although some safeguard measures may be applied within a 15 year period (if used).

Liberalization of bilateral trade in goods is discussed in great detail in Title IV “Trade And Trade-Related Matters” and Title V “Economic and Sector Cooperation”. The titles contain multiple references to the GATT/WTO agreement, use WTO terminology and establish the DCFTA rules on existing WTO foundations.

Besides multiple TRQs, technical regulations will also serve as a trade limiting tool -- especially immediately after the association. According to the text, the parties agreed to follow the WTO procedures for many trade issues. According to the Annex III to Title IV of the Association Agreement, Ukraine agreed to change its technical regulations to bring them in compliance with EU practices. The same should be done to SPS barriers, but Ukraine is expected to arrive with a separate SPS harmonization plan, which is not included in the Agreement. In this way, in the early years of the Association, Ukrainian producers will remain limited in their export abilities while their EU competitors will not face this problem. The SPS barriers will significantly limit Ukraine’s ability to ship products of animal origin to the EU. Ukraine also agreed to cancel its state standards (a.k.a. GOSTs) that were implemented prior to 1991 and that contradict EU regulations. The majority of those (12,776 GOSTs adopted prior to 1992) were canceled by the Ministry of Economic Development and Trade of Ukraine’s Resolution on December 15<sup>th</sup>, 2015. The transition period for canceled technical regulations will last through the end of 2018.

Annex III of the Agreement requires Ukraine to adopt Horizontal (framework) legislation within a one year period. This covers general product safety, accreditation and market surveillance, common frameworks for the marketing of products, units of measurement and liability for defective products. Although vertical (sectoral) legislation has a much longer adaptation period, none of the 27 regulations impact agricultural commodities. The list of agricultural products in international trade subject to regulations are provided in Annex IV (Sanitary and Phytosanitary Measures (SPS)), while Annex V will provide the comprehensive strategy for the implementation of Chapter IV.

Among TRQs for products of animal origin discussed below in this report, Ukraine received additional TRQs for: sheep meat (HS 0204) 1,500 MT/year with a linear increase in five years to 2,250 MT/year; eggs and albumin (selected codes under HS 0407, 0408 and 3502) 1,500 MT/year in shell-egg equivalent with a linear increase in five years to 3,000 MT/year and separate TRQ for shelled fresh preserved or cooked eggs (HS 04070030) of 3,000 MT/year in net weight equivalent; Honey (HS 0409) 5,000 MT/year in net weight equivalent with a linear increase in five years to 6,000 MT/year. American suppliers should be ready for increased competition with EU producers in trade for these products.